

CASE PROCESSING STANDARDS ANALYSIS FAMILY LAW - POST-JUDGMENT MOTIONS

National Center for State Courts Model Time Standards for Post-Judgment Motions:

98% within 180 days (6 months)

Measurement: Measurement is the date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.

Arizona Family Law - Post-Judgment Motions

The Arizona Case Processing Standards Steering Committee recommends that Arizona adopt a different standard:

50% within 180 days

90% within 270 days

98% within 365 days

Measurement: The date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.

The following stay of proceedings will be excluded from the measurement:
Servicemembers Civil Relief Act and pending juvenile cases.

Arizona Rules and Statutes	Timelines under Statute and Rule
Motions Filed: Rule 91(B), ARFLP Rule 91(L), ARFLP Rule 91(C), ARFLP Rule 91(E), ARFLP	<p style="text-align: center;">(Measurement Starts Here)</p> <p><u>Petitions for Modification and Enforcement of Spousal Maintenance or Child Support, Relocate or Prevent Relocation, Modification and Clarification of Parenting Time or Visitation – Time for Service:</u> Moving party to serve documents and the issued Order to Appear on opposing party at least 10 days prior to the scheduled conference or hearing, unless another specific time is ordered by the court.</p> <p><u>Responses; Time for Response:</u> All responses and affidavits required to be filed shall be filed and served within 10 days after service of the petition on the party but in no event less than 3 judicial days prior to the scheduled hearing, unless another specific time is ordered by the court.</p> <p><u>Petition to Modify Child Custody (will change to Legal Decision-Making terminology, effective January 1, 2012):</u> No hearing shall be set unless compliance with A.R.S. § 25-411. No sooner than 5 days after expiration of the time permitted for filing of the response or controverting affidavits, either party shall provide the Request for Order Granting or Denying Custody Hearing to the assigned division. Court will determine whether a custody hearing should be granted. If so the court shall schedule a RMC or evidentiary hearing.</p>
Rule 91(M), ARFLP	
Rule 91(D), ARFLP	
Service of Process: Rule 40(I), ARFLP ¹	<u>No Service- Dismissal:</u> Action dismissed without prejudice if

¹ Arizona Rules of Family Law Procedure

Arizona Rules and Statutes	Timelines under Statute and Rule
<p>Rule 40(F), ARFLP</p> <p>Rule 32(A), ARFLP</p> <p>Rule 42(C) and (J), ARFLP</p> <p>Rules 41(M) and 42(D), ARFLP</p>	<p>summons and complaint not served upon defendant within 120 days of filing of complaint.</p> <p><u>Service; Acceptance or Waiver; Voluntary Appearance:</u> Waiver, acceptance or appearance has the same force and effect as if a summons had been issued and served. Filing of a responsive pleading constitutes an appearance.</p> <p><u>Service in Arizona:</u> If defendant served in Arizona, the answer must be filed within 20 days from date of service. Personal service is required for issues requiring personal jurisdiction over the parties, i.e., paternity, child support, spousal maintenance, division of marital property.</p> <p><u>Out-of-State Service:</u> If defendant personally served outside of state, must file answer within 30 days from completion of service. If by registered mail 30 days after date on return receipt.</p> <p><u>Service by Publication:</u> Answer is due 50 days from date of first publication if within Arizona or 60 days if out of state.</p>
<p>Servicemembers protections: Sec. 201 [50 U.S.C. App. 521]</p> <p>Sec. 202 [50 U.S.C. App. 522]</p>	<p>Servicemembers Civil Relief Act²</p> <p><u>Protection of servicemembers against default judgments:</u> This provision applies to any civil action or proceeding in which the defendant (respondent) does not make an appearance. The court must grant a stay of proceedings for a minimum period of 90 days upon application of counsel or on the court's own motion if the court determines that: 1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant (respondent), and 2) after due diligence, counsel has been unable to contact the defendant (respondent) or otherwise determine if a meritorious defense exists.</p> <p><u>Stay of proceedings when servicemember has notice:</u> This provision applies to any civil action or proceeding in which the plaintiff or defendant (respondent) at the time of filing is in the military or is within 90 days after termination of or release from military service; and has received notice of the action or proceeding. The court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if conditions are met. (Conditions include a letter from servicemember and commanding officer indicating military duty requirements materially affecting the servicemember's ability to appear, date when available to appear and that military leave is not authorized for the servicemember at the time of the letter.) The servicemember may also</p>

² SCRA (As amended through February 1, 2006) Public Law 108-189 (enacted December 19, 2003: 117 Stat.2835) restated, clarified, and revised this Act as then in existence. 50 U.S.C. App. §§ 521, 522 and 524

